

Article 6.

Withdrawable Accounts.

§ 54B-121. Creation of withdrawable accounts.

(a) Every State association shall be authorized to raise capital through the solicitation of investments from any person, natural or corporate, except as restricted or limited by law, or by such regulations as the Commissioner of Banks may prescribe.

(b) Such funds obtained through the solicitation of investments shall be held by an association in accounts designated generally as withdrawable accounts.

(c) An association may establish as many classes of withdrawable accounts as may be provided for in its certificate of incorporation or bylaws, subject to such regulations and limitations as the Commissioner of Banks may prescribe.

(1) At least one class of withdrawable accounts shall be established by which the holder, upon notice to the association, shall be able to withdraw the entire balance of such account without any penalty. The required period of notice, not to exceed 30 days, shall be determined by the board of directors of each association.

(2) For any additional classes of withdrawable accounts that may be established, the board may require a fixed minimum amount of money and a fixed minimum term, at the end of which, the account holder, without any notice on his part, shall be entitled to payment of the final balance of the funds in such account. Such minimum amount and minimum term and the rate of dividends on withdrawable accounts shall be agreed upon prior to the transfer to the association of any funds by the account holder and shall be evidenced by an executed contract.

a. An association may impose a penalty upon the holder of such account to be assessed at the time of any withdrawal from the account prior to the date of termination of the minimum term for which the account holder contracted.

b. An association may require that the holder of such an account provide the association with not less than 30 days' notice of an intended withdrawal prior to the date of the termination of the account contract.

c. When the date of termination of such an account is passed and the account is mature and payable, all payments thereon by the holder and all dividends on withdrawable account credits thereto by the association shall cease. However, if the holder shall notify the association, prior to the termination date of the account, that he wishes to extend the life of the account, the association shall renew the account and continue to accept payments and/or make dividends on withdrawable account credits or cancel the account as provided under the original contract.

d. Unless the association receives notification within the proper time period and renews the account, then upon the date of termination, it shall either pay to the holder of the account the final value thereof, or mail a notice to the holder at his last address as it appears on the records of the association to the effect that he is entitled to receive payment for the account.

- e. If the association does not make payment to the holder of the account upon the date of termination and instead mails a notice to him as provided in paragraph d above, then until such time as the holder is paid, the account shall earn dividends on withdrawable accounts at a rate not less than the rate which the association is paying on its account or accounts established under subdivision (1) above, unless provided otherwise by the account contract.
 - f. Whenever an association has funds in an amount insufficient to make immediate payment upon the date of termination of an account, or upon an application for withdrawal, the maturity shall be paid in accordance with the provisions of G.S. 54B-124. Whenever such a situation arises, dividends on withdrawable accounts shall be credited to the account at a rate not less than the rate provided for in the account contract.
- (3) An association may establish demand deposit accounts as a class of withdrawable accounts. The association shall not permit any overdraft, including an intraday overdraft, on behalf of an affiliate or incur any overdraft in the association's account at a federal reserve bank or federal home loan bank on behalf of an affiliate. (1981, c. 282, s. 3; 1981 (Reg. Sess., 1982), c. 1238, s. 12; 1989 (Reg. Sess., 1990), c. 806, s. 9; 2001-193, s. 16.)

§ 54B-122. Additional requirements.

Withdrawable accounts shall be:

- (1) Withdrawable upon demand, subject to the requisite advance notice to the association by the holder, as listed in G.S. 54B-121(c)(2)b and by such regulations as the Commissioner of Banks may prescribe;
- (2) Entitled to dividends as provided herein or in such regulations as the Commissioner of Banks may prescribe;
- (3) Evidenced by an executed contract setting forth any special terms and provisions applicable to the account and the conditions upon which withdrawal may be made. The form of such contract shall be subject to the prior approval of the Commissioner of Banks and shall be held by the association as part of its records pertaining to the account. (1981, c. 282, s. 3; 1981 (Reg. Sess., 1982), c. 1238, s. 13; 2001-193, s. 16.)

§ 54B-123. Dividends on withdrawable accounts.

(a) An association shall compute and pay dividends on withdrawable accounts in accordance with such terms and conditions as are herein prescribed, and subject to additional limitation and restrictions as shall be set forth in its bylaws, or certificate of incorporation and resolutions of its board of directors.

(b) Notwithstanding any other provisions of the General Statutes, savings and loan associations shall not be limited in the amount of dividends they may pay on withdrawable accounts. The Commissioner of Banks shall have the authority to insure that no association pays dividends on withdrawable accounts inconsistent with the association's continued solvency, and safe and proper operation. (1981, c. 282, s. 3; 2001-193, s. 16.)

§ 54B-124. Withdrawals from withdrawable accounts.

(a) A withdrawable account holder may at any time make written application for withdrawal of all or any part of the withdrawal value thereof except to the extent the same may be pledged as security for a loan, as recorded by the association. The association shall number, date, and file every unpaid withdrawal application in the order of actual receipt.

(b) An association shall pay the total amount of the withdrawal value of a withdrawable account upon application from the holder of the account, except as otherwise provided in this section. Payment shall be made in full, without exception, to holders of withdrawable accounts whose withdrawable account totals one hundred dollars (\$100.00) or less.

(c) If an association has funds in the treasury and from current receipts in an amount insufficient to pay all long term withdrawable accounts which are mature and due and all applications for withdrawal, then within seven days after such accounts mature or payment is due, the board of directors of such association shall provide by resolution:

- (1) A statement of the amount of money available in each calendar month to pay maturities and withdrawals, in accordance with safe and required operating procedures; provided, that after making provision for expenses, debts, obligations and cash dividends on withdrawable accounts, not less than one hundred percent (100%) of the remainder of cash treasury funds and current receipts shall be made available for the payment of outstanding applications for withdrawal and maturities;
- (2) A list of matured withdrawable accounts in order of their maturity, and if in the same series, in order of issuance within such series; and a list of applications for withdrawal in order of actual receipt;
- (3) For a maximum sum, set by the Commissioner of Banks which shall be paid to any one holder of a withdrawable account, for which a maturity or an application for withdrawal has not been paid, in any one month; and if the maturity or withdrawal due shall exceed the sum so fixed, then the holder shall be paid such sum in his turn according to the due date of the maturity or the filing date of the application; and his application shall be deemed refiled for payment in order in the next month; and such limited payment shall be made on a fixed date in each month for so long as any application or maturity remains unpaid.

(d) A withdrawable account pledged by the holder as sole security or partial security for a loan shall be subject to the withdrawal provisions of this section, but an application for withdrawal from such account shall be paid only if the resulting balance in such account would equal or exceed the outstanding loan balance, or portion thereof, secured by the withdrawable account. However, withdrawal of any additional amount from the account may be permitted, provided that such payment of such withdrawal application shall be applied first to the outstanding balance of the loan.

(e) The contents of a withdrawable account may be accepted by an association in payment or partial payment for any real property or other assets owned by the association and being sold.

(f) The holder of a withdrawable account which is mature and payable or for which application for withdrawal has been made does not become a creditor of the association merely by reason of such payment due to him.

(g) Any such resolution adopted by an association's board of directors pursuant to this section shall be submitted to the Commissioner of Banks for his approval or rejection. If he finds such to be fair to all affected parties, he shall approve it. If he determines otherwise, such resolution

shall be rejected and the association shall not implement any of its provisions. The Commissioner of Banks shall issue his findings within 10 days after receipt of the resolution.

(h) The membership in a mutual association of a withdrawable account holder who has filed an application for withdrawal or whose account is mature and due shall remain unimpaired for so long as any withdrawal value remains to his credit upon the books of the association.

(i) An association may not obligate itself to pay maturities and withdrawals under any provisions other than the ones set forth in this section without prior approval of the Commissioner of Banks. (1981, c. 282, s. 3; 2001-193, s. 16.)

§ 54B-125. Emergency limitations.

The Commissioner of Banks, with the approval of the Governor, may impose a limitation upon the amounts withdrawable or payable from withdrawable accounts of State associations during any specifically defined period when such limitation is in the public interest and welfare. (1981, c. 282, s. 3; 2001-193, s. 16.)

§ 54B-126. Forced retirement of withdrawable accounts.

(a) At any time that funds may be on hand and available for such a purpose, and the bylaws of an association and withdrawable account contracts so provide, an association shall have the authority and right to redeem all or any portion of its withdrawable accounts which have not been pledged as security for loans by forcing the retirement thereof. The number of and total amount of such withdrawable accounts to be retired by an association shall be determined by the board of directors.

(b) An association shall give notice by certified mail to the last address of each holder of an affected withdrawable account of at least 30 days. The redemption price of withdrawable accounts so retired shall be the full withdrawal value of the account, as determined on the last dividend date, plus all dividends on withdrawable accounts credited or paid as of the effective retirement date. Dividends shall continue to accrue and be paid or credited by the association to the withdrawable accounts to be retired up to and including the effective retirement date.

(c) If the required notice has been properly given, and if on the effective retirement date the funds necessary for payment have been set aside so as to be available, and shall continue to be available therefor, dividends on those withdrawable accounts called for forced retirement shall cease to accrue after the effective retirement date. All rights with respect to such account shall, after the effective retirement date, terminate, except only the right of the holder of the retired withdrawable account to receive the full redemption price.

(d) No association may redeem withdrawable accounts by forced retirement whenever it has on file applications for withdrawal, or maturities which have not yet been acted upon and paid. No association may redeem withdrawable accounts by forced retirement until the maturity of any fixed minimum term which may be required for the class of withdrawable accounts to be retired. (1981, c. 282, s. 3.)

§ 54B-127. Negotiable orders of withdrawal.

Notwithstanding any other provisions of law, the Commissioner of Banks shall by regulation, authorize associations to accept deposits to withdrawable accounts which may be withdrawn or transferred on or by negotiable or transferable order or authorization to the association. (1981, c. 282, s. 3; 2001-193, s. 16.)

§ 54B-128. Option on nonnegotiable orders of withdrawal.

Notwithstanding any other provisions of law, the Commissioner of Banks may by regulation authorize State associations to establish nonnegotiable orders or authorizations of withdrawal. (1981, c. 282, s. 3; 2001-193, s. 16.)

§ 54B-129. Joint accounts.

(a) Any two or more persons may open or hold a withdrawable account or accounts. The withdrawable account and any balance thereof shall be held by them as joint tenants, with or without right of survivorship, as the contract shall provide; the account may also be held pursuant to G.S. 41-2.1 and have incidents set forth in that section, provided, however, if the account is held pursuant to G.S. 41-2.1 the contract shall set forth that fact as well. Unless the persons establishing the account have agreed with the association that withdrawals require more than one signature, payment by the association to, or on the order of, any persons holding an account authorized by this section shall be a total discharge of the association's obligation as to the amount so paid. Funds in a joint account established with right of survivorship shall belong to the surviving joint tenant or tenants upon the death of a joint tenant, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(3), or as provided in G.S. 41-2.1 if the account is established pursuant to the provisions of that section. Payment by the association of funds in the joint account to a surviving joint tenant or tenants shall terminate the personal representative's authority under G.S. 28A-15-10(a)(3) to collect against the association for the funds so paid, but the personal representative's authority to collect such funds from the surviving joint tenant or tenants is not terminated. A pledge of a joint account by any one or more of the joint tenants, unless otherwise specifically agreed between the association and all joint tenants in writing, shall be a valid pledge and transfer of the account or of the amount so pledged, shall be binding upon all joint tenants, shall not operate to sever or terminate the joint ownership of all or any part of the account, and shall survive the death of any joint tenant.

Persons establishing an account under this section shall sign a statement showing their election of the right of survivorship in the account, and containing language set forth in a conspicuous manner and substantially similar to the following:

"SAVINGS AND LOAN (or name of institution)
JOINT ACCOUNT WITH RIGHT OF SURVIVORSHIP
G.S. 54B-129

We understand that by establishing a joint account under the provisions of North Carolina General Statute 54B-129 that:

1. The savings and loan association (or name of institution) may pay the money in the account to, or on the order of, any person named in the account unless we have agreed with the association that withdrawals require more than one signature; and
2. Upon the death of one joint owner the money remaining in the account will belong to the surviving joint owners and will not pass by inheritance to the heirs of the deceased joint owner or be controlled by the deceased joint owner's will.

We DO elect to create the right of survivorship in this account.

"

(a1) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law as appropriate.

(b) This section does not repeal or modify any provisions of law relating to estate taxes. This section regulates and protects the association in its relationships with joint owners of deposit accounts.

(c) No addition to such account, nor any withdrawal or payment shall affect the nature of the account as a joint account, or affect the right of any tenant to terminate the account. (1981, c. 282, s. 3; 1987 (Reg. Sess., 1988), c. 1078, s. 5; 1989, c. 164, s. 1; 1989 (Reg. Sess., 1990), c. 866, s. 1; 1998-69, s. 16; 2014-61, s. 2.)

§ 54B-130: Repealed by Session Laws 2011-236, s. 2, effective October 1, 2011.

§ 54B-130.1. Payable on Death (POD) accounts.

(a) If any natural person or natural persons establishing a deposit account shall execute a written agreement with the association containing a statement that it is executed pursuant to the provisions of this section and providing for the account to be held in the name of the natural person or natural persons as owner or owners for one or more beneficiaries, the account and any balance thereof shall be held as a Payable on Death account. The account shall have the following incidents:

- (1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the association.
- (2) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 54B-129.
- (3) Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the owner's personal order.
- (4) If the beneficiary or beneficiaries are natural persons, there may be one or more beneficiaries and the following shall apply:
 - a. If only one beneficiary is living and of legal age at the death of the last surviving owner, the beneficiary shall be the owner of the account, and payment by the association to such owner shall be a total discharge of the association's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 54B-129, and payment by the association to the owners or any of the owners shall be a total discharge of the association's obligation as to the amount paid.

- b. If only one beneficiary is living and that beneficiary is not of legal age at the death of the last surviving owner, the association shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the association shall hold the funds in a similar interest bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
- (5) If the beneficiary is an entity other than a natural person, there shall be only one beneficiary.
- (6) If one or more owners survive the last surviving beneficiary who was a natural person, or if a beneficiary who is an entity other than a natural person should cease to exist before the death of the owner, the account shall become an individual account of the owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual account in a case of a single owner or a joint account with right of survivorship, as provided in G.S. 54B-129, in the case of multiple owners.
- (7) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the association of funds in the Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the association for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The natural person or natural persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the language set out below; the language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person or persons establishing the account:

"SAVINGS AND LOAN (or name of institution)
PAYABLE ON DEATH ACCOUNT
G.S. 54B-130.1

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 54B-130.1 that:

- 1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account.

2. By written direction to the association (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries.
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

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(b) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

(c) No addition to such accounts, nor any withdrawal, payment, or change of beneficiary, shall affect the nature of such accounts as Payable on Death accounts or affect the right of any owner to terminate the account.

(d) This section does not repeal or modify any provisions of laws relating to estate taxes. (1981, c. 282, s. 3; 1987 (Reg. Sess., 1988), c. 1078, s. 6; 1989, c. 164, s. 4; 1989 (Reg. Sess., 1990), c. 866, s. 2; 1998-69, s. 17; 2001-267, s. 3; 2011-236, s. 2; 2012-168, s. 4; 2012-194, s. 63.)

§ 54B-131. Right of setoff on withdrawable accounts.

(a) Every association shall have a right of setoff, without further agreement or pledge, upon all withdrawable accounts owned by any member or customer to whom or upon whose behalf the association has made an unsecured advance of money by loan; and upon the default in the repayment or satisfaction thereof the association may cancel on its books all or any part of the withdrawable accounts owned by such member or customer, and apply the value of such accounts in payment on account of such obligation.

(b) An association which exercises the right of setoff provided in this section shall first give 30 days' notice to the member or customer that such right will be exercised. Such accounts may be held or frozen, with no withdrawals permitted, during the 30-day notice period. Such accounts may not be canceled and the value thereof may not be applied to pay such obligation until the 30-day period has expired without the member or customer having cured the default on the obligation. The amount of any member's or customer's interest in a joint account or other account held in the names of more than one person shall be subject to the right of setoff provided in this section.

(c) This section is not exclusive, but shall be in addition to contract, common law and other rights of setoff. Such other rights shall not be governed in any fashion by this section. (1981, c. 282, s. 3; 1991, c. 707, s. 5.)

§ 54B-132. Minors as withdrawable account holders; safe deposit box lessees.

(a) An association may issue a withdrawable account to a minor as the sole and absolute owner, or as a joint owner, and receive payments, pay withdrawals, accept pledges and act in any other manner with respect to such account on the order of the minor with like effect as if he were of full age and legal capacity. Any payment to a minor shall be a discharge of the association to the extent thereof. The account shall be held for the exclusive right and benefit of the minor, and any joint owners, free from the control of all persons, except creditors.

(b) An association may lease a safe deposit box to a minor and, with respect to such lease, may deal with the minor in all regards as if the minor were of full age and legal capacity. A minor entering a lease agreement with an association pursuant to this subsection shall be bound by the terms of the agreement to the same extent as if the minor were of full age and legal capacity. (1981, c. 282, s. 3; 1989, c. 437; 1991, c. 707, s. 6.)

§ 54B-133. Withdrawable accounts as deposit of securities.

Notwithstanding any restrictions or limitations contained in any law of this State, the withdrawable accounts of any State association or of any federal association having its principal office in this State, may be accepted by any agency, department or official of this State in any case wherein such agency, department or official acting in its or his official capacity requires that securities be deposited with such agency, department or official. (1981, c. 282, s. 3.)

§ 54B-134. New account books.

A new account book or certificate or other evidence of ownership of a withdrawable account may be issued in the name of the holder of record at any time when requested by such holder or his legal representative upon proof satisfactory to the association that the original account book or certificate has been lost or destroyed. Such new account book or certificate shall expressly state that it is issued in lieu of the one lost or destroyed and that the association shall in no way be liable thereafter on account of the original book or certificate. The association may in its bylaws require indemnification against any loss that might result from the issuance of the new account book or certified certificate. (1981, c. 282, s. 3.)

§ 54B-135. Transfer of withdrawable accounts.

The owner of a withdrawable account may transfer his rights therein absolutely or conditionally to any other person eligible to hold the same but such transfer may be made on the books of the association only upon presentation of evidence of transfer satisfactory to the association, and accompanied by the proper application for transfer by the transferor and transferee, who shall accept such account subject to the terms and conditions of the savings contract, the bylaws of the association, the provisions of its certificate of incorporation, and all rules and regulations of the Commissioner of Banks. Notwithstanding the effectiveness of such a transfer between the parties thereto, the association may treat the holder of record of a withdrawable account as the owner thereof for all purposes, including payment and voting (in the case of a mutual association) until such transfer and assignment has been recorded by the association. (1981, c. 282, s. 3; 2001-193, s. 16.)

§ 54B-136. Authority of power of attorney.

An association may continue to recognize the authority of an individual holding a power of attorney in writing to manage or to make withdrawals either in whole or in part from the withdrawable account of a customer or member until it receives written or actual notice of death or of adjudication of incompetency of such member or revocation of the authority of such individual holding such power of attorney. Payment by the association to an individual holding a power of attorney prior to receipt of such notice shall be a total discharge of the association's obligation as to the amount so paid. (1981, c. 282, s. 3.)

§ 54B-137. Reserved for future codification purposes.

§ 54B-138. Reserved for future codification purposes.

§ 54B-139. Personal agency accounts.

(a) A person may open a personal agency account by written contract containing a statement that it is executed pursuant to the provisions of this section. A personal agency account may be a checking account, savings account, time deposit, or any other type of withdrawable account or certificate. The written contract shall name an agent who shall have authority to act on behalf of the depositor in regard to the account as set out in this subsection. The agent shall have the authority to:

- (1) Make, sign or execute checks drawn on the account or otherwise make withdrawals from the account;
- (2) Endorse checks made payable to the principal for deposit only into the account; and
- (3) Deposit cash or negotiable instruments, including instruments endorsed by the principal, into the account.

A person establishing an account under this section shall sign a statement containing language substantially similar to the following in a conspicuous manner:

"SAVINGS AND LOAN (or name of institution)
PERSONAL AGENCY ACCOUNT
G.S. 54B-139

I understand that by establishing a personal agency account under the provisions of North Carolina General Statute 54B-139 that the agent named in the account may:

1. Sign checks drawn on the account; and
2. Make deposits into the account.

I also understand that upon my death the money remaining in the account will be controlled by my will or inherited by my heirs.

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(b) An account created under the provisions of this section grants no ownership right or interest in the agent. Upon the death of the principal there is no right of survivorship to the account and the authority set out in subsection (a) terminates.

(c) The written contract referred to in subsection (a) shall provide that the principal may elect to extend the authority of the agent set out in subsection (a) to act on behalf of the principal in regard to the account notwithstanding the subsequent incapacity or mental incompetence of the principal. If the principal so elects to extend such authority of the agent, then upon the subsequent incapacity or mental incompetence of the principal, the agent may continue to exercise such authority, without the requirement of bond or of accounting to any court, until such time as the agent shall receive actual knowledge that such authority has been terminated by a duly qualified guardian of the estate of the incapacitated or incompetent principal or by the duly appointed attorney-in-fact for the incapacitated or incompetent principal, acting pursuant to a durable power of attorney (as defined in G.S. 32A-8 [see now G.S. 32C-1-102]) which grants to the attorney-in-fact that authority in regard to the account which is granted to the agent by the written contract executed pursuant to the provisions of this section, at which time the agent shall account

to such guardian or attorney-in-fact for all actions of the agent in regard to the account during the incapacity or incompetence of the principal. If the principal does not so elect to extend the authority of the agent, then upon the subsequent incapacity or mental incompetence of the principal, the authority of the agent set out in subsection (a) terminates.

(d) When an account under this section has been established all or part of the account or any interest or dividend thereon may be paid by the association on a check made, signed or executed by the agent. In the absence of actual knowledge that the principal has died or that the agency created by the account has been terminated, such payment shall be a valid and sufficient discharge to the association for payment so made. (1987 (Reg. Sess., 1988), c. 1078, s. 7; 1989, c. 164, s. 7; 1989 (Reg. Sess., 1990), c. 866, s. 3.)

§§ 54B-140 through 54B-146. Reserved for future codification purposes.